

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
CIVIL MINUTES**

Case Title :	Karin M. Frank	Case No : 10-36150 – A – 11
		Date : 7/5/11
		Time : 10:00
Matter :		
	[346] – Motion for Relief from Automatic Stay Filed by Creditor Dimitrios Zahariudakis (Fee Paid \$150) (nkr) [346] – Motion/Application for Adequate Protection Filed by Creditor Dimitrios Zahariudakis (nkr)	OPPOSED
Judge :	Michael S. McManus	
Courtroom Deputy :	Sarah Head	
Reporter :	Diamond Reporters	
Department :	A	

APPEARANCES for :

Movant(s) :

None

Respondent(s) :

(by phone) Debtor – Karin M. Frank

MOTION was :

Denied

See final ruling below.

The court will issue a minute order.

Final Ruling: The motion will be denied.

The movant, Dimitrios Zahariudakis, seeks relief from the automatic stay as to a real property in Willows, California.

The debtor opposes the motion, contending that she has no ownership interest in the property. The property has not been listed in the petition schedules or statements.

The motion will be denied as it is not supported by sufficient evidence. The movant has executed a declaration stating only that he is holder of the note discussed in the motion. But, none of the other factual assertions in the motion have been substantiated by admissible evidence. See Local Bankruptcy Rule 9014-1(d)(6) ("Every motion shall be accompanied by evidence establishing its factual allegations and demonstrating that the movant is entitled to the relief requested. Affidavits and declarations shall comply with FRCivP 56(e).").

Further, the movant has produced no evidence that the debtor is obligated on the promissory note secured by the property at issue. The debtor disputes having any interest in the property. She says only that she was a trustee of the Frank Nelson Family Trust, which owned the property. The debtor resigned as trustee of the trust, two years prior to filing the instant bankruptcy petition. And, the movant has not presented evidence to refute the evidence offered by the debtor.

The motion will be denied.